II.   REMARKS

Applicant offers the following remarks in response to the Office Action dated June 24,

2009.

A.   STATUS SUMMARY

Claims 1-36 are pending in the present application. No claims have been added or

cancelled. Accordingly, claims 1-36 remain pending.

In this Amendment, Applicant has amended claims 1, 3-18, 20, 21, 23-32, 34 and 35.

Applicant is not conceding that the subject matter encompassed by claims 1, 3-18, 20, 21, 23-32,

34 and 35 prior to this Amendment is not patentable over the art cited by the Examiner. Claims

1, 3-18, 20, 21, 23-32, 34 and 35 were amended solely to facilitate expeditious prosecution of the

present application. Applicant respectfully reserves the right to pursue claims, including the

subject matter encompassed by claims 1, 3-18, 20, 21, 23-32, 34 and 35 as presented prior to this

Amendment and additional claims in one or more continuing applications.

B.   CLAIM REJECTIONS – 35 U.S.C. § 112

Claims 1-36 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to

comply with the written description requirement. Applicant respectfully traverses.

The Patent Office is respectfully reminded that the Federal Circuit has long held that the

written description need not provide ipsis verbis support of claim terms. As stated in In re Alton,

76 F.3d 1168, 1175, 37 USPQ.2d 1578, 1584 (Fed. Cir. 1996):

> If . . . the specification contains a description of the claimed invention, albeit not
> in ipsis verbis (in the identical words), then the examiner or Board, in order to
> meet the burden of proof, must provide reasons why one of ordinary skill in the

art would not consider the description sufficient. *Id.* at 1175. If a person of
ordinary skill in the art would have understood the inventor to have been in
possession of the claimed invention at the time of filing, even if every nuance of
the claims is not explicitly described in the specification, then the adequate
written description requirement is met. *Id.*

Thus, for any rejection to stand under 35 U.S.C. 112, first paragraph, the Patent Office

must, in order to meet the burden of proof, provide reasons why one of ordinary skill in the art

would not consider the description sufficient. Further, a claim term does not have to be included

ipsis verbis in the Specification in order to meet the written description requirement.

Regarding the present rejection, Applicant finds that the Patent Office has failed to

provide any reasoning as to "why" a person of skill in the art would not consider the description

sufficient. As such, the present rejection of claims 1-36 under 35 U.S.C. § 112, first paragraph,

is defective at least for failing to provide the proper reasoning as required and the present

rejection should be withdrawn for at least this reason.

However, to expedite prosecution of the present application, Applicant provides the

following analysis of support for the claimed subject matter in recognition of the fact that the

Patent Office has not met its burden with sufficient reasoning to sustain the present rejection.

Using claim 1 as an example, claim 1 recites, among other things, "the native

environment being an environment of a primary operating system of the client device . . . ." The

Patent Office alleges that there is no support for this claim language. (Office Action dated June

24, 2009, page 2). However, Applicant respectfully disagrees.

Paragraph 0005 of the Specification teaches that "a standard desktop (e.g., WIN-32)

computer could have several native application (sic) that run within a native environment."

Paragraph 0005 continues by teaching that "[t]ypical examples of native applications include word processing programs, spreadsheets, etc."

Applicant respectfully submits that a person of skill in the art would understand, based upon Applicant's teaching, that WIN-32 is a primary operating system available (or previously available) for standard desktop computers. As such, a person of skill would further understand, based upon Applicant's teaching, that a primary operating system is a native environment for such a standard desktop computer.

A person of skill would further understand that native applications (e.g., word processing programs, spreadsheets, etc.) run on primary operating systems (e.g., WIN-32) of standard desktop computers. As such, a person of skill would further understand that native applications that run on primary operating systems run on a native environment (e.g., primary operating system) of a computing device, and that the disclosed native environment is equivalent to the claimed primary operating system, based upon Applicant's teachings.

Based at least upon this analysis of the Specification, Applicant respectfully submits that a person of skill in the art would recognize that Applicant had possession of the claimed native environment being an environment of a primary operating system of the client device. Further, while the specific phrase "primary operating system" is not used within the Specification, ipsis verbis support for specific claim language is not required, as discussed above. As such, sufficient support is provided within the Specification for the claimed subject matter and the present application more than adequately teaches the claimed language.

16

Accordingly, the present rejection of claims 1-36 under 35 U.S.C. § 112, first paragraph, should be withdrawn for at least these additional reasons.

Claims 1-36 were rejected under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully traverses.

The Patent Office alleges that the Specification provides no support for Applicant's claimed "the native environment being an environment of a primary operating system of the client device . . . ." However, as discussed above, adequate support is believed to exist within the Specification for the claimed subject matter. Accordingly, the present rejection of claims 1-36 under 35 U.S.C. § 112, second paragraph, should be withdrawn.

Claims 1, 4-11, 13, 15, 17, 20, 23, 25, 27, 29, 31, and 34 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Applicant has amended claims 1, 4-11, 13, 15, 17, 20, 23, 25, 27, 29, 31, and 34 for clarity and antecedent basis. Support for the claim amendments may be found, for example, within paragraphs 0025 and 0005 of the Specification. Applicant has amended the phrase "OSGi bundle" to recite a "control bundle" and "OSGi environment" to recite "control environment." (Specification, para. 0025). Applicant respectfully submits that a person of skill would understand that if an OSGi bundle is a control bundle, as taught by Applicant within paragraph 0025, an OSGi environment is equivalent to a control environment based upon Applicant's teachings. Again, ipsis verbis support is not required. Additionally, Applicant has amended the phrase "WIN-32 agent" to recite "standard desktop agent" and "WIN-32 application" to recite "standard desktop application."

17

(Specification, para. 0005) Applicant incorporates its arguments above herein by reference that a person of skill would recognize that WIN-32 is an operating system. Ipsis verbis claim language within the Specification is not required. As such, the claim amendments are supported by the Specification and no new matter is believed added. Accordingly, the present rejection of claims 1, 4-11, 13, 15, 17, 20, 23, 25, 27, 29, 31, and 34 under 35 U.S.C. § 112, second paragraph, should be withdrawn.

C.   CLAIM REJECTIONS – 35 U.S.C. § 101

Claims 1-12 were rejected under 35 U.S.C. § 101 as being allegedly directed to non-statutory subject matter. Applicant respectfully traverses.

However, independent claims 1 and 8 have been amended to clarify that the respective methods are computer-implemented method, as requested by Examiner Nahar.

Applicant respectfully submits that claims 1-12 are directed to statutory subject matter and that the rejection of claims 1-12 under 35 U.S.C. § 101 should be withdrawn.

D.   CLAIM REJECTIONS – 35 U.S.C. § 102

Claims 1-36 were rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent Application Publication No. 2003/0191823 to Bansal et al. (hereinafter "Bansal"). Applicant respectfully traverses.

For the Patent Office to establish anticipation, the Patent Office must show where each and every element of the claims is shown in a single reference. Further, the elements must be arranged as required by the claims. MPEP § 2131. The requirement that each and every element

18

be disclosed in the manner claimed is a rigorous standard that the Patent Office has not met in this case.

As an initial observation, the Bansal reference appears to be directed to network services (e.g., Quality of Service - QoS) between multiple devices. The present application teaches that "[t]ypical examples of native applications include word processing programs, spreadsheets, etc. As such, the Bansal reference does not teach or suggest use of the claimed native applications. Accordingly, the Patent Office has failed to identify the claimed native applications within the Bansal reference as cited. As such, the Patent Office has further failed to identify the claimed subject matter related to the claimed native applications. Accordingly, at least these multiple elements are missing from the Bansal reference and the rejection under 35 U.S.C. § 102(e) is in error and should be withdrawn for at least these reasons.

Applicant has amended claims 1, 3-18, 20, 21, 23-32, 34 and 35 for clarity and antecedent basis, and as further discussed above. Support for these amendments may be found within the claims prior to amendment and the Specification as originally filed.

For example, claim 7 previously recited removing the native application from within the OSGi bundle while maintaining the link. The Specification teaches that:

> the "act of starting OSGi bundle 16 causes native application 18 to be extracted from OSGi bundle 16, and the 'Install' program for native application 18 to be executed. Native application 18 is then removed from OSGi bundle 16 leaving only a "controller bundle" with it's associated links to the native application 18. (Specification, para. 0032).

> At this point, only native application 18 will remain in native environment 24, while OSGi bundle 16 will remain in OSGi environment 22. (Specification, para. 0025).

Further, the "management program 20 can be used to issue 'commands.' These commands will be received by agent 26 and communicated to the OSGi bundle 16 in OSGi environment 22. Thereafter, OSGi bundle 16 will instruct agent 26 (e.g., a WIN-32 agent) to carry out the command on native application 18 in native environment 24 (Specification, para. 0025).

Independent claims 1, 8, 13, 23, and 27 each recite, using the language of claim 1 for convenience, among other things, a variation of "issuing a command from the application management server to the installed control bundle to cause the control bundle to extract the native application from the control bundle at the client device, where the created link between the control bundle and the native application is maintained . . . ." Applicant respectfully submits that it finds no teaching or suggestion within the cited portions of the Bansal reference of issuing a command from an application management server to the installed control bundle to cause the control bundle to extract the native application from the control bundle at the client device, where the created link between the control bundle and the native application is maintained, as claimed. Accordingly, the rejection under 35 U.S.C. § 102(e) should be withdrawn for at least these additional reasons.

Further, independent claims 1, 8, 13, 23, and 27 each recite, using the language of claim 1 for convenience, among other things, a variation of "deploying, via the installed control bundle in response to the command issued by the application management server, the extracted native application directly within a native environment of the client device . . . ." Applicant respectfully submits that it finds no teaching or suggestion within the cited portions of the Bansal reference of deploying, via the installed control bundle in response to the command issued by the application

20

management server, the extracted native application directly within a native environment of the client device, as claimed.

While it is noted that the Bansal reference discloses that the network services (as distinguished above from Applicant's claimed native applications) may be run on the underlying operating system, the Bansal reference makes clear that the network "services run in the context of Active Framework . . . ." (Bansal, para. 0043). As such, the Bansal reference does not teach or suggest that the network services are extracted from the Java Virtual Machine (JVM).

In contrast, the Bansal reference actually teaches away from extracting the network services from the JVM. Additionally, Applicant respectfully submits that any attempt to modify the Bansal reference to cause the network services to be extracted would result in rendering the Bansal reference unsatisfactory for its intended purpose and would change a principle of operation of the Bansal reference.

The Patent Office is respectfully reminded that "[i]f [a] proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." (MPEP § 2143.01, V citing *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984), emphasis added).

In summary, in addition to the Bansal reference not teaching or suggesting the claimed native applications, the Bansal reference also does not teach or suggest the claimed "issuing a command from the application management server to . . . cause the control bundle to extract the native application from the control bundle at the client device, where the created link between the control bundle and the native application is maintained. Additionally, the Bansal reference

21

does not teach or suggest the claimed "deploying, . . . , the extracted native application directly within a native environment of the client device." Accordingly, the rejection under 35 U.S.C. § 102(e) should be withdrawn for at least these additional reasons.

Further, the Bansal reference may not be combined with another reference to arrive at the claimed subject matter without rendering the Bansal reference unsatisfactory for its intended purpose and without changing a principle of operation of the Bansal reference. Accordingly, it is respectfully submitted that the Bansal reference is not a suitable reference for use in a rejection of Applicant's claims.

Applicant apologizes for any confusion that may have been caused by the previously-recited language of the claims. The language of the claims as amended provides clarity.

Based upon the analysis above, the Office Action dated June 24, 2009, fails to identify all of the elements of Applicant's independent claims 1, 8, 13, 23, and 27 within the Bansal reference. Additionally, the Office Action alleges multiple factual errors regarding the disclosure of the cited reference as cited. Applicant respectfully submits that the Patent Office's legal conclusion of anticipation also in error as at least being based upon erroneous factual allegations. Accordingly, the Bansal reference does not anticipate independent claims 1, 8, 13, 23, and 27 and the rejection of independent claims 1, 8, 13, 23, and 27 should be withdrawn for at least this reason.

Claims 2-7 depend, either directly or indirectly, from claim 1. Claims 9-12 depend, either directly or indirectly, from claim 8. Claims 14-22 depend, either directly or indirectly, from claim 13. Claims 24-26 depend from claim 23. Claims 28-36 depend, either directly or

indirectly, from claim 27. Accordingly, the rejection of claims 2-7, 9-12, 14-22, 24-26, and 28-36 should be withdrawn for at least the same reasons as the independent claims from which they depend. Applicant respectfully submits that claims 1-36 are in condition for allowance and notice of the same is requested at the earliest possible date.

The undersigned additionally notes that many distinctions exist between the cited reference and the claims. However, in view of the deficiencies discussed above, further discussion is believed to be unnecessary at this time. Failure to address each point raised in the Office Action should accordingly not be viewed as accession to the Examiner's position or an admission of any sort.

III.   CONCLUSION

In light of the above Amendments and Remarks, it is respectfully submitted that the present application is now in proper condition for allowance, and an early notice to such effect is earnestly solicited.

If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Remarks, the Patent Examiner is respectfully requested to telephone the undersigned patent attorney in order to resolve these matters and avoid the issuance of another Office Action.

Although it is believed that no fees are due, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account No. 09-0461.

Respectfully submitted,

Lee Law, PLLC

Date: September 22, 2009

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24